IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

CRIMINAL REVN. APPLICATION NO.447 OF 2004

Sou. Nandabai Shamrao Ghadage .. ..Applicant

Versus

Shri Shamrao Ganpati Ghadage & Anr. ..Respondents

Mr. Dilip Bodke for applicant

Mr. Vinod H. Wagh h/f Hirendra Venegaonkar for respondent no.1

Mr. S.S.Pednekar, APP for State

CORAM : S.C.DHARMADHIKARI, J.

DATE : 1ST DECEMBER, 2006

P.C.:

1. Heard Shri Bodke appearing for the applicant-wife and Mr.Wagh appearing for the respondent-husband.

2. The applicant is aggrieved by the judgment and order of the II Addl. Sessions Judge, Satara dated 11th

August, 2004. By this judgment and order the learned Addl. Sessions Judge allowed Criminal Revision Application No.80 of 2002 preferred by the 1st respondent-husband. That Criminal Revision Application challenged the judgment and order of maintenance delivered by learned Judicial Magistrate, First Class, Vaduj in Cri. Maintenance Application No.5 of 2001.

3. The applicant before me is more than 60 years of age whereas the 1st respondent is 70 years. They were married more than three decades back. They have resided and cohabited together. There are two daughters and one son born from this marriage/wedlock. The daughters and son are married. The learned Addl. Sessions Judge found that after residing with the 1st Respondent-husband for about 30 years and involved in all family affairs, the applicant-wife left the house enraged and agitated by the fact that the marriage of one of their daughter was solemnised without consulting her.

4. Not only that, the learned Addl. Sessions Judge found that the applicant-wife made allegations against 1st respondent-husband of having illicit relations with the mother-in-law of their daughter. The applicant-wife could

not substantiate her pleas that after she left the house, an attempt was made by her to resume co-habitation and that was she has been prevented from doing so by the husband. She could not substantiate her allegations of ill-treatment and harassment during the 30 years of her marriage. In these peculiar circumstances and when the son of the applicant and 1st respondent Anil stepped into the box and pointed out that the grievance of his mother has no substance, the Addl. Sessions Judge recorded a finding that she is dis-entitled for maintenance.

5. The learned trial judge has noted all these aspects but proceeded to brush aside all of them. The materials are such as can be hardly ignored and brushed aside, is the finding of the Addl. Sessions Judge. He has clearly opined that the learned J.M.F.C. committed an error apparent on the face of record and his judgment is perverse when it ignores the testimony of the son of the applicant and 1st respondent.

6. From a perusal of the orders passed by the courts below and a copy of the maintenance application, it is not possible to agree with Shri Bodke, the learned counsel appearing for the applicant, that the learned Addl.

Sessions was in any error in stepping in and reversing the judgment of the learned J.M.F.C. These are matters which are decided on the touch stone of Section 125(4) and when the learned Judge was of the view that the materials produced indicate that the applicant-wife left the matrimonial home without sufficient reason, it was his plain duty to step in which he has performed in accordance with law.

7. For the above reasons I find no merit in this Revisiona Application and it is summarily dismissed.

(S.C.Dharmadhikari, J.)